

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
FERNANDO HERNANDEZ, JUANY :
GUZMAN, BRANDON ROSE, IRVING : Case No.: 15-CV-1338 (ALC)
COLLADO, ANDRES SALAS, BENGALY:
KONATE, MICHAEL J. RODEIGUEZ, :
WILTON A. DARDAIN, and JUAN :
CORREA, :
:
Plaintiffs, :
:
-- against -- :
:
THE FRESH DIET, INC., LATE NIGHT :
EXPRESS COURIER SERVICES, INC. :
(FL), FRESH DIET EXPRESS CORP. :
(NY), THE FRESH DIET - NY INC. (NY), :
FRESH DIET GRAB & GO, INC. (FL) :
a/k/a YS CATERING HOLDINGS, INC. :
(FL) d/b/a YS CATERING, INC. (FL), :
INNOVATIVE FOOD HOLDINGS, INC. :
(FL), FRESH DIET EXPRESS CORP. (FL),:
SYED HUSSAIN, Individually, JUDAH :
SCHLOSS, Individually, and ZALMI :
DUCHMAN, Individually, :
:
Defendants. :
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NOTICE OF MOTION

PLEASE TAKE NOTICE THAT, upon the Third Amended Complaint, the accompanying Memorandum of Law, and the Declaration of David Sack, executed June 24, 2016, and the exhibits attached thereto, upon such opposition papers that may be filed, such reply papers that may be filed, and upon all other pleadings and papers filed herein, Defendant Innovative Food Holdings, Inc. will move this Court, on a date and time to be set by the Court, before the Honorable Andrew L. Carter, United States District Judge for the Southern District of New York, at the Courthouse thereof, 40 Centre Street, Room 1306, New York, New York

10007, for an Order, pursuant to Fed. R. Civ. P. 12(b)(6), dismissing the Third Amended Complaint as against Defendant Innovative Food Holdings, Inc. in its entirety and with prejudice, and for such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to the scheduling order set by Magistrate Judge Cott, opposition papers, if any, are to be filed on or before July 25, 2015, and reply papers, if any, are to be filed on or before August 8, 2016.

Dated: New York, New York
June 24, 2016

FEDER KASZOVITZ LLP

By: 

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